

**REMARKS**

Applicant respectfully requests further examination and reconsideration in view of the above amendments and arguments set forth fully below. Claims 1-17 were previously pending in the present application. Within the Office Action, Claims 1-17 have been rejected. By way of the above amendments, Claims 1, 3 5 and 11 have been amended, Claims 2, 7, 15 and 16 have been canceled and new Claim 18 has been added. Accordingly, Claims 1, 3-6, 8-14, 17 and 18 are now pending in this application.

**Rejections Under 35 U.S.C. § 102(e):**

Within the Office Action, Claims 1, 3-6, 8-15 and 17 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,837,827 to Lee et al. (hereafter "Lee et al."). The rejection of Claims 1, 3-6, 8-15 and 17 under 35 U.S.C. § 102(e) as being anticipated by Lee et al. is considered moot in view of the above amendments.

Lee et al. teach a personal training device that allows a user to monitor his location and progress towards user-defined goals. [Specification; column 2, lines 64-67 and column 3, lines 1-15] The device can monitor a user's location and distanced traveled. The device can then adjust an audible signal to help the user meet his or her goals. However, the device taught by Lee et al. is not suitable for use as a coaching tool.

The present invention is a timing/pacing device that is configured to be used as a coaching tool, as well as a personal training tool, preferably for swimmers. The timing/pacing device of the present invention includes a clip unit for attaching to a goggle strap and a timing/pacing unit that detachably couples to the clip unit while the clip unit is coupled to the goggle strap. Accordingly, the timing unit can be quickly removed from the clip unit without removing the clip unit from the goggle strap and can be replaced by another timing unit. This provides a number of advantages for using the timing/pacing device of the present invention as a coaching tool for coaching swimmers.

While coaching a team of swimmers, for example, a coach can provide to the team of swimmers a first set of timing/pacing units that are programmed with a first set of pacing frequencies or rhythms, wherein each swimmer on the team has clip units, such as described above, attached to his or her goggles. The swimmers then actuate the first set of timing/pacing units and swim through a first training cycle corresponding to the first set of pacing frequencies or rhythms. At the end of the first training cycle, the coach can provide the team of swimmers with second set timing/pacing units programmed with a second set of pacing frequencies or rhythms to begin a second cycle of training.

As described above, to replace the first set of timing/pacing units, the team of swimmers simply remove the first set of timing/pacing units from their respective clip units and snap the

second set of timing/pacing units into the clip unit without having to remove their goggles. In this way the coach can provide customized team training. A timing/pacing device with features that are suitable for use as a coaching tool for training a team of swimmers, as well as an individual swimmer, is neither taught nor suggested by Lee et al. By way of the above amendment, each of the independent Claims 1, 5 and 11 has been amended to more clearly recite features that allow the device of the present invention to be used for coaching.

Specifically, the independent Claim 1 now recites a portable electronic device, wherein the portable electronic device is configured to provide an audible signal at a repeated frequency selectable by a user wherein the repeated frequency corresponds to an interval between two tenths of a second and ten minutes and wherein the electronic device comprises a timing unit contained within a waterproof housing, wherein the timing unit comprises a plurality of buttons configured to allow the user to select a single frequency as the repeated frequency, a display configured to display a numerical representation of the repeated frequency selected by the user, a power source and a detachably clip member configured to detachably couple to the timing unit and to goggles. As stated above, Lee et al. neither teach nor suggest a timing/pacing device with a clip for detachable coupling to goggles and detachably coupling to the timing unit of the device, such as currently recited in the independent Claim 1. For at least this reason, the independent Claim 1 is allowable over the teachings of Lee et al.

Claims 3 and 4 are both dependent on the independent Claim 1. As described above, the independent Claim 1 is now allowable over the teachings of Lee et al. Accordingly, Claims 3 and 4 are also both allowable as being dependent on an allowable base claim.

The independent Claim 5 now recites an electronic pacing device comprising a housing, wherein the housing comprises a programmable timing circuit configured to allow a user to select a single pacing frequency through a plurality of buttons, means for providing an audible signal corresponding to the pacing frequency and a clip member configured to detachably couple to eye wear. As stated above, Lee et al. neither teaches of suggests a timing/pacing device with a clip for detachably coupling to eye wear and detachably coupling to the timing unit of the device, such as currently recited in the independent Claim 5. For at least this reason, the independent Claim 5 is allowable over the teaching of Lee et al.

Claims 6 and 8-10 are all dependent on the independent Claim 5. As described above, the independent Claim 5 is now allowable over the teachings of Lee et al. Accordingly, Claims 6 and 8-10 are also all allowable as being dependent on an allowable base claim.

The independent Claim 11 now recites an electronic tempo device comprising a detachable clip member for detachably coupling to goggles and detachably coupling to a housing, wherein the housing comprises a programmable timer configured to be programmed with a single set frequency interval, means for providing a repeated audible cue at the set frequency interval, a

display configured to display a numerical representation of the set frequency interval, a power source configured to provide power to the means for providing a repeated audible cue and the programmable timer, and means for inputting controls to the device, wherein the means for inputting controls to the device is configured to turn the device on and off and program the set frequency interval. As stated above, Lee et al. neither teach nor suggest an electronic tempo device with a clip for detachably coupling to goggles and detachably coupling to a housing of a timing unit, such as currently recited in the independent Claim 11. For at least this reason, the independent Claim 11 is allowable over the teaching of Lee et al.

By way of the above amendment, Claims 15 and 15 have been canceled. Claims 12-14 and 17 are all dependent on the independent Claim 11. As described above, the independent Claim 11 is now allowable over the teachings of Lee et al. Accordingly, the Claims 12-14 and 17 are also all allowable as being dependent on an allowable base claim.

**Rejections Under 35 U.S.C. § 103(a):**

Within the Office Action, Claims 2, 7 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al., in view of U.S. Patent No. 5,599,274 to Widjaja (hereafter "Widjaja"). By way of the above amendment, Claims 2, 7 and 16 have all been canceled.

The Applicant respectfully submits that Claims 1, 3-6, 8-14, 17 and 18 are now in condition for allowance. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss them so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: April 5, 2005

By: \_\_\_\_\_

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**CERTIFICATE OF MAILING (37 CFR § 1.8(a))**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

Date: 4/11/05 By: HAVERSTOCK & OWENS LLP.